

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 556, As Amended

BY RESOURCES AND CONSERVATION COMMITTEE

AN ACT

RELATING TO FLOOD PROTECTION; AMENDING SECTION 46-1021, IDAHO CODE, TO REVISE THE DEFINITION OF "DEVELOPMENT"; AND AMENDING SECTION 46-1022, IDAHO CODE, TO PROVIDE THAT FLOODPLAIN ZONING ORDINANCES SHALL NOT REGULATE CERTAIN ACTIVITIES RELATING TO IRRIGATION AND DRAINAGE WORKS THAT ARE PERFORMED OR AUTHORIZED BY THE OWNER PURSUANT TO LAWFUL RIGHTS AND OBLIGATIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 46-1021, Idaho Code, be, and the same is hereby amended to read as follows:

46-1021. DEFINITIONS. As used in this act:

(1) "Development" means any manmade change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures, or the construction of additions or substantial improvements to buildings, structures or accessory structures; the placement of mobile homes; mining, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of materials; specifically including the construction of dikes, berms and levees. The term "development" does not include the operation, cleaning, maintenance or repair of any ditch, canal, lateral, drain, diversion structure or other irrigation or drainage works that is performed or authorized by the owner thereof pursuant to lawful rights and obligations.

(2) "Flood" means a general or temporary condition of partial or complete inundation of normally dry land areas caused by the overflow or rise of river, ocean, streams or lakes, or the unusual and rapid accumulation or runoff of surface waters from any source.

(3) "Flood fringe" is that portion of the floodplain outside of the floodway covered by floodwaters during the regulatory flood.

(4) "Floodplain" is the land that has been or may be covered by floodwaters, or is surrounded by floodwater and inaccessible, during the occurrence of the regulatory flood. The riverine floodplain includes the floodway and the flood fringe.

(5) "Floodplain management" is the analysis and integration of the entire range of measures that can be used to prevent, reduce or mitigate flood damage in a given location, and that can protect and preserve the natural, environmental, historical, and cultural values of the floodplain.

(6) "Floodproofing" means the modifications of structures, their sites, building contents and water and sanitary facilities, to keep water out or reduce the effects of water entry.

(7) "Flood protection elevation" means an elevation that shall correspond to the elevation of the one percent (1%) chance flood (one

1 hundred (100) year flood) plus any increased flood elevation due to floodway  
2 encroachment, plus any required freeboard.

3 (8) "Floodway" is the channel of the river or stream and those portions  
4 of the floodplain adjoining the channel required to discharge and store the  
5 floodwater or flood flows associated with the regulatory flood.

6 (9) "Freeboard" represents a factor of safety usually expressed in  
7 terms of a certain amount of feet above a calculated flood level. Freeboard  
8 shall compensate for the many unknown factors that contribute to flood  
9 heights greater than the height calculated. These unknown factors include,  
10 but are not limited to, ice jams, debris accumulation, wave action,  
11 obstruction of bridge openings and floodways, the effects of urbanization  
12 on the hydrology of the watershed, loss of flood storage areas due to  
13 development and the sedimentation of a river or stream bed.

14 (10) "Local government," in the context of this chapter, means any  
15 county or city having planning and zoning authority to regulate land use  
16 within its jurisdiction.

17 (11) "Mitigation" means any action taken which will reduce the impact,  
18 damage or cost of the next flood that occurs.

19 (12) "Person" means any individual, group of individuals, corporation,  
20 partnership, association, political subdivision, public or private agency  
21 or entity.

22 (13) "Regulatory flood" is a flood determined to be representative  
23 of large floods known to have occurred in Idaho and which may be expected  
24 to occur on a particular stream because of like physical characteristics.  
25 The regulatory flood is based upon a statistical analysis of stream flow  
26 records available for the watershed or an analysis of rainfall and runoff  
27 characteristics in the watershed. In inland areas, the flood frequency of  
28 the regulatory flood is once in every one hundred (100) years; this means  
29 that in any given year there is a one percent (1%) chance that a regulatory  
30 flood may occur or be exceeded.

31 SECTION 2. That Section 46-1022, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 46-1022. LOCAL GOVERNMENTS MAY ADOPT FLOODPLAIN ZONING  
34 ORDINANCES. Subject to the availability of adequate mapping and data to  
35 properly identify the floodplains, if any, within their jurisdiction, each  
36 local government is encouraged to adopt a floodplain map and floodplain  
37 management ordinance which identifies these floodplains and which requires,  
38 at a minimum, that any development in a floodplain must be constructed at a  
39 flood protection elevation and/or have adequate floodproofing. The local  
40 government may regulate all mapped and unmapped floodplains within their  
41 jurisdiction. Nothing in this act shall prohibit a local government from  
42 adopting more restrictive standards than those contained in this chapter.  
43 Floodplain zoning ordinances shall not regulate the operation, cleaning,  
44 maintenance or repair of any ditch, canal, lateral, drain, diversion  
45 structure or other irrigation or drainage works that is performed or  
46 authorized by the owner thereof pursuant to lawful rights and obligations.